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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,510	02/16/2004	Mary Ann Hettich	038316/269234	1384
826	7590	12/23/2005	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			HOEY, ALISSA L	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 12/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/780,510

Applicant(s)

HETTICH, MARY ANN

Examiner

Alissa L. Hoey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>05/12/05 02/16/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russell (US 3,440,665) in view of Fregeolle (US 3,975,929).

In regard to claim 1, Russell teaches a stocking garment (4) comprising a foot portion (11, 15), leg portion (12, 11) having a lower leg portion and an upper leg portion and a waist support (18) spaced above the leg portions (11, 12). A hip portion (17) extending between the leg portion and the waist support portion. The hip portion (17) having a cutout portion (21, 22) on each side of the hip portion sized to accommodate the lower waist of the wearer so that the stocking may be worn on either leg (figure 1). The waist portion (18) constructed so as to accommodate a fastener (27, 28) surrounding the patient's waist and the stocking being capable of being worn on either leg of the patient (figures 1 and 2).

However, Russell fails to teach the stocking being a therapeutic gradient compression stocking.

Fregeolle teaches a therapeutic gradient compression stocking (column 1, lines 4-9).

In regard to claim 2, Russell teaches the waist portion (18) including strap engaging loop having a waist strap passing there through (figures 2 and 6).

In regard to claim 3, Russell teaches the waist strap fastening on either the left side of the right side of the strap (figures 2, identifiers 26, 27, 28, 29).

In regard to claim 4, it would have been obvious to have provided the foot portion having a closed toe configuration or a toe opening configuration, because as long as the stocking supports the user's leg and has a connecting waist portion allowing the stocking to be worn on either foot the toe configuration can be chosen by one having ordinary skill in the art based upon end use of the garment.

In regard to claim 5, Russell teaches the foot portion having a closed toe (11, 15).

In regard to claim 6, Russell fails to teach the pressure in the distal end of the stocking gradually decreases to the proximal end.

Fregeolle teaches the pressure in the distal end of the stocking gradually decreases to the proximal end of the stocking (column 1, lines 4-9).

In regard to claim 7, Russell teaches the hip portion (17) extending from about 30% to 50% of the circumference of the upper opening of the stocking exclusive of the cutouts (figures 1 and 2).

It would have been obvious to have provided the stocking of Russell having the waist connection with the therapeutic compression construction of the stocking of Fregeolle, since the stocking of Russell provided with the therapeutic compression construction would provide not only a stocking garment that secures at the waist to

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prevent the garment from falling down when worn but also provides therapeutic needs to the wearer preventing incidence of pulmonary embolism.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gallet, Mcguire, Smith, Walser, Arabeyre, Kim, Matthews, Jones, Conti, Brown, Rice and Frazier are all cited to show closely related garment articles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alissa L. Hoey
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